P.R. No. 3532/05
Presented by Arun Kochar
dated 25/7/05

(1)
(3)

**IN THE HIGH COURT OF JUDICATURE AT BILASPUR**

**CHHATTISGARH**

WRIT PETITION NO. 3470 /2005

**PETITIONER** : Rasul Ahemad, aged about 55 years, S/o Late Tajuddin, Mining Sardar, Pandupara Colliery, R/o Pandupara Colliery, Dist. Korea Chhattisgarh

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**VERSUS**

**RESPONDENTS** :

1. Chief General Manager, The South Eastern Coal fields Limited, Ghilimilee Up-Schetra, Dist. Baikunthpur (C.G.)

2. Dypt. General Manager, The South Eastern Coal fields Limited, Ghilimilee Up-Schetra, Dist. Baikunthpur (C.G.)

**WRIT PETITIONER UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA**

(20)

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**WRIT PETITION NO. 3470 OF 2005**

**RASUL AHEMAD**

**VERSUS**

**CHIEF GENERAL MANAGER, S.E.C.L.**
**AND ANOTHER**

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Shri Gowri Shankar Singh, counsel for the petitioner.

Shri P.S. Koshy, counsel for the respondents on advance copy.

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**O R D E R**
**29.07.2005**

The following oral order has been passed by Shri **Sunil Kumar Sinha, J.**

Shri Gowri Shankar Singh, counsel for the petitioner.

Shri P.S. Koshy, counsel for the respondents on advance copy.

**I.A. No. 6578 of 2005:**

This is an application for urgent hearing.

The matter is taken up on Board. I.A. No. 6578 of 2005 for urgent hearing stands disposed of.

**W.P. No. 3470 of 2005:**

Heard both the counsel for the parties.

By way of this writ petition, filed under Article 226/227 of the Constitution of India, the petitioner has challenged the legality of impugned order dated 05.07. 2005 (Annexure-P/1) which in fact, is an order of superannuation of the petitioner which is to be effected on 31.07.2005 on account of completion of his age of superannuation treating his date of birth is 05.07.1945.

Learned counsel for the petitioner submits that the date of birth shown in the impugned order as 05.07.1945 is not correct. The correct date of birth of the petitioner is 05.07.1950 and if calculations are made on the basis of his correct date of birth, he shall be entitled for more services of about five years. Learned counsel for the petitioner draws the attention towards the document Annexure-P/2 which a representation given by the petitioner on 13.07.2005 stating his grievances to the management but the management has not decided the aforesaid representation so far and ultimately the petitioner has to retire on 31st July, 2005. Learned counsel for the petitioner submits that on the basis of actual date of birth of the petitioner, impugned order dated 05.07.2005 should be quashed.

On the other hand, learned counsel for respondent No. 1 & 2 submits that in fact, the date of birth mentioned in the service record shall be the determining factor for the superannuation and the order passed by the management on 05.07.2005 is fully justified as the same is passed on the basis of service records of the petitioner.

Admittedly, there is an Age Determination Committee with the establishment of the respondents and when disputes regarding the age of employees occur between the employees and the management, the matters are referred to the age determination committee and decision of the said committee is to be followed by the management.

In the facts and circumstances of the case and after hearing counsel for both the parties, in the opinion of this Court, ends of justice would be served, if the matter is sent to the age determination committee, and the said committee is directed to take decision within the stipulated period and the management is directed to communicate the same to the petitioner for further action.

It is hereby directed that respondent No. 1 shall refer the case of the petitioner to the age determination committee within a period of 15 days from the date of production of certified copy of this order along with copy of writ petition before respondents

No.1/2 by the petitioner. The Age Determination Committee shall dispose of the matter as early as possible preferably within a period of two months from the date of receipt of the matter from respondents No. 1 & 2 as above and the decision shall be sent to respondents No. 1/2. Respondents No. 1/2 shall be obliged to forthwith communicate the petitioner about the said decision taken by the age determination committee.

Needless to say that the decision of the age determination committee shall follow its own course for deciding the case of the petitioner regarding his service benefits.

With the aforesaid directions, the petition stands finally disposed of.

Consequently, M.(W.)P. No. 2938 of 2005 also stands disposed of.

Certified copy as per rules.

**Sd/-**
**Sunil Kumar Sinha**
**Judge**

Vatti